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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)**

In re JOAQUIN C., a Person Coming Under
the Juvenile Court Law.

C079438

(Super. Ct. No. 69402)

THE PEOPLE,

Plaintiff and Respondent,

v.

JOAQUIN C.,

Defendant and Appellant.

Minor Joaquin C. brought a knife to school, pointed it at another student, and demanded everything in the student's possession. The student attempted to give Joaquin his iPod and cell phone but Joaquin did not take the items. When police officers subsequently attempted to arrest Joaquin, he resisted the officers. The juvenile court adjudged Joaquin to be a ward based on a finding that he personally used a knife during

the commission of an attempted robbery (Pen. Code, §§ 664, 211 & 12022, subd. (b)(1)), resisted a peace officer (*id.*, § 148, subd. (a)(1)), and committed assault with a deadly weapon, a knife (*id.*, § 245, subd. (a)(1)).

The trial court placed Joaquin on probation for a term of 12 months with various conditions, including the condition that he serve 60 days in the Juvenile Justice Center with credit for 25 days. The trial court also ordered Joaquin to pay a restitution fine of \$100 pursuant to Welfare and Institutions Code section 730.6, subdivision (b)(1),¹ a general fund fine of \$100 pursuant to section 731, subdivision (a)(1), a 10 percent collection fee pursuant to section 730.6, subdivision (q), and a fine of \$267.50 (including penalty assessments, surcharges, and fees) pursuant to section 730.5 and Penal Code section 1464.²

On appeal, Joaquin contends the trial court improperly imposed the \$100 general fund fine and the \$267.50 fine as terms and conditions of his probation.³ He asserts that the fines are collateral to the crimes and must be imposed, if at all, by separate order. He therefore requests the fines be stricken as conditions of his probation. Joaquin further contends, and the People concede, that the juvenile court miscalculated his custody credit. He asserts he is entitled to 27 days of credit rather than the 25 days awarded by the juvenile court. To the extent the \$100 general fund fine and the \$267.50 fine were imposed as conditions of Joaquin's probation, we conclude the probation order was erroneous, and we modify the order to reflect that these fines are ordered but not as

¹ Undesignated statutory references are to the Welfare and Institutions Code.

² In light of the issues raised on appeal, further recitation of the underlying facts and procedural history of this case is unnecessary.

³ In our review of the record, it appears ambiguous as to whether the challenged fines were imposed as conditions of Joaquin C.'s probation. However, given the lack of clarity, we will proceed on the assumption that Joaquin C. has correctly interpreted the record.

conditions of Joaquin’s probation. We also modify the probation order to reflect that Joaquin is entitled to 27 days of custody credit. As modified, the probation order (judgment) is affirmed.

DISCUSSION

1.0 Imposition of Fines as Probation Conditions

Joaquin C. contends the trial court improperly ordered him to pay a \$100 general fund fine and a \$267.50 fine as terms of his probation. In support of his contention, Joaquin relies on authorities stating that, in adult criminal proceedings, fines and fees that are collateral to a defendant’s crime may not be made conditions of probation in the absence of a statutory exception. (See, e.g., *People v. Hall* (2002) 103 Cal.App.4th 889, 892 (*Hall*); *Brown v. Superior Court* (2002) 101 Cal.App.4th 313, 321-322 (*Brown*); *People v. Hart* (1998) 65 Cal.App.4th 902, 907 (*Hart*).) The People agree that this is a correct statement of the law regarding adult criminal defendants, but note that juvenile criminal defendants may be required to pay fines and fees as probation conditions based on the court’s broad discretion in crafting probation conditions for minors. (See, e.g., *In re Sheena K.* (2007) 40 Cal.4th 875, 889; *In re D.G.* (2010) 187 Cal.App.4th 47, 52; *In re R.V.* (2009) 171 Cal.App.4th 239, 246-247.) We conclude that, absent a statutory exception, the same prohibition applicable to adult criminal defendants applies to preclude imposition of collateral fines and fees as probation conditions for juveniles.

Pursuant to section 730, subdivision (b), a juvenile court, when placing a minor on probation “ ‘may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.’ [Citation.] Consistent with this mandate, the juvenile court is recognized as having ‘ ‘broad discretion in formulating conditions of probation’ ” [citation], and the juvenile court’s imposition of any particular probation

condition is reviewed for abuse of discretion.” (*In re D.G.*, *supra*, 187 Cal.App.4th at p. 52.) Though adult criminal courts also have “ ‘broad discretion’ ” in formulating probation conditions, juvenile conditions “ ‘may be broader than those pertaining to adult offenders’ ” because wards’ constitutional rights are more circumscribed, they are in greater need of guidance and supervision, and the court stands in the shoes of a parent in exercising jurisdiction over the minor. (*Ibid.*) Thus, conditions that would be improper for adult probationers may be permissible for minors. (*Ibid.*)

Nonetheless, the court’s power to impose probation conditions on minors is not limitless. (*In re D.G.*, *supra*, 187 Cal.App.4th at p. 52.) Rather, juvenile probation conditions are subject to the same three-part standard articulated in *People v. Lent* (1975) 15 Cal.3d 481. (*In re D.G.*, at p. 52.) That standard dictates that a probation condition is rendered invalid if it “ ‘(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality’ ” (*Lent*, at p. 486; accord, *In re D.G.*, at pp. 52-53.)

In adult criminal cases, it has been repeatedly held that payment of collateral costs, including various fines and fees, may not be imposed as a condition of probation. (See, e.g., *Hall*, *supra*, 103 Cal.App.4th at p. 892; *Brown*, *supra*, 101 Cal.App.4th at pp. 321-322; *Hart*, *supra*, 65 Cal.App.4th at p. 907.) Rather, such costs should be imposed as a separate order. (See *Brown*, *supra*, at p. 322; *People v. O’Connell* (2003) 107 Cal.App.4th 1062, 1068.) The rationale applicable in adult criminal cases is equally applicable here. The challenged fines are not related to the crimes Joaquin committed, relate to conduct that is not criminal, and require conduct that is not reasonably related to future criminality.

Additionally, had the Legislature intended to permit the imposition of the fines authorized by sections 730.5 and 731 as conditions of a minor’s probation, it could have

so stated. Indeed, in section 730.6, subdivision (l), the Legislature specifically directed that payment of a restitution fine may be made a condition of a minor's probation. The Legislature enacted no such authorizing provision as it relates to the county general fund fine prescribed in section 731 or the fine and penalty assessment prescribed in section 730.5 and Penal Code section 1464. The Legislature's enactment of section 730.6, subdivision (l) demonstrates it knows how to authorize imposition of a fine as a condition of probation, and the lack of any similar provision with regard to the fines at issue here is telling.

Accordingly, to the extent the trial court imposed the \$267.50 fine (including Penal Code section 1464 surcharges and assessments) authorized by section 730.5 and the \$100 general fund fine authorized by section 731 as conditions of Joaquin's probation, those probation conditions are stricken. However, the order that Joaquin separately pay those fines remains intact as the fines themselves are statutorily authorized.

2.0 Custody Credit

Joaquin C. contends, and the People concede, that he is entitled to 27 days of credit rather than the 25 days of credit awarded by the juvenile court. We agree.

Juveniles are entitled to precommitment credit for time spent in custody prior to the disposition hearing. (*In re Eric J.* (1979) 25 Cal.3d 522, 533-536; *In re Emilio C.* (2004) 116 Cal.App.4th 1058, 1067.) Here, the record discloses that Joaquin was arrested on February 6, 2015, and remained in continuous custody until March 4, 2015, i.e., 27 days. The juvenile court, however, awarded Joaquin only 25 days of custody credit. Because this was error, we will order correction of the probation order.

DISPOSITION

The conditions of probation are modified to delete the requirement to pay the \$267.50 fine authorized pursuant to section 730.5 and Penal Code section 1464 and the \$100 general fund fine authorized pursuant to section 731. However, the order that Joaquin C. pay such fines is affirmed. The clerk of the trial court shall correct the probation order to reflect these modifications. The clerk shall also correct the probation order to reflect that Joaquin C. is entitled to 27 days of custody credit. As modified, the probation order (judgment) is affirmed.

BUTZ, J.

We concur:

HULL, Acting P. J.

MAURO, J.